OBSERVATIONS
ON THE
OUGLAS CAUSE,
IN GENERAL;

t chiefly with a View to the Characters of the Parties principally concerned, on the Part of the DEFENDANT.

IN A

LETTER
TO A
NOBLE LORD.

rom a Gentleman in SCOTLAND.

d dulcius hominum generi a natura datum est, quam sui cuique liberi?——

BIBLIOTHECA BODLEIANA

LONDON.
Printed for E. and C. DILLY in the Poultry.

MDCCLXVIII.

A

LETTER, &c.

MY LORD:

IN obedience to your lordſhip's commands, I have, with all the attention in my power, read over the proof on both ſides of the Douglas cauſe: and as you did me the honour to deſire it, I now give your lordſhip the trouble of a letter on that very intereſting ſubject.

I WILL acknowledge, my lord, that during the dependance of this great cauſe I have found my mind very differently affected in regard to the parties concerned; for though I have been for many years well acquainted with the charac-

ter of Lady Jane Douglas, and was ever willing to put the beſt conſtruction on her conduct, yet I was frequently ſtumbled with the bold and confident aſſertions of the plaintiffs, and durſt not cheriſh a partiality in favour of any character, againſt which men of birth, fortune, and account in the world had, in the moſt publick and ſolemn manner, engaged to produce the moſt unexceptionable and convincing evidence. That evidence is now before the publick, and to me, my lord, it appears equally exceptionable and inconcluſive.

I WAS fully confirmed in this opinion by readinga very ſpirited pamphlet, *The Eſſence of the Douglas Cauſe*, juſt after I had gone through the tedious proof; and as your lordſhip may have ſeen that pamphlet, I ſhall but juſt obſerve, that in my humble opinion it does equal honour to the Author's head and his heart; he hath entered deeply into the cauſe, and writes of men and things

things with a freedom and generous warmth, worthy the great cauſe he ſo nobly pleads; worthy the country in which it was publiſhed.

If ever a cauſe deſerved the moſt ſerious attention of judges, to that favour the Douglas cauſe hath a juſt claim: a cauſe, my lord, in its nature, and in its conſequences of the laſt importance. It is the cauſe, not of an individual, but of all mankind; nor of mankind only, but of that part of our ſpecies which hath a peculiar title to our candour and humanity: it is the general cauſe of orphans and minors, who, as they can do nothing for themſelves, muſt abſolutely depend on the protection of the laws. In this light, my lord, the world muſt ſee the Douglas cauſe, and in this light I am ſure your lordſhip does ſee it.

Your lordſhip knows, that ſeveral years ago the defendant was in a very ſolemn manner ſerv-

ed heir to his uncle the late Duke of Douglas, at which time the evidence of his propinquity appeared ſo ſtrong, that it overpowered all objections; that in conſequence of this ſervice the court of ſeſſion put him in poſſeſſion of the family eſtate. That ſoon thereafter claims to the ſucceſſion were entered on the part of the Duke of Hamilton, as heir-male of the family; and of the Earl of Selkirk, in virtue of an antient ſettlement of the eſtate. Had the noble claimants prevailed in theſe ſuits, the defendant might without quarrel have peaceably enjoyed the honour of being eſteemed the ſon of Lady Jane Douglas; but as both theſe claims were diſmiſt, the plaintiffs went roundly to work, and what they could not effectuate in one way, they endeavoured to accompliſh by another.

THEY attempted to prove that the defendant was not the ſon of Lady Jane Douglas and Sir John Stewart, but an impoſtor bought or ſtole

by

by them in Paris with the nefarious view of ſupplanting the legal heirs of the Duke of Douglas. A heavy charge, my lord; but how is it ſupported?——By the boldeſt, the moſt unprecedented attacks upon the character of the defendant's parents;—one of them long before dead, the other juſt on the verge of life when this ſuit commenced, and ſince dead alſo;—by an attack upon the characters of their domeſticks at the time of the defendant's birth;—by an attack upon the whole evidence upon which he was ſerved heir to his uncle;—and by adducing a minute and tedious proof of a vaſt variety of very remote facts and circumſtances, which might with almoſt equal propriety be applied to ſet aſide the right of any man living.

I WILL ſo far join iſſue with the plaintiffs as to acknowledge that the characters of Lady Jane and Sir John are of great weight in the cauſe; but before I enter upon a particular inveſtigation of

of their characters, I beg leave to obſerve, that there is no human character without its flaws: perfection is not the lot of man in his preſent ſtate; and therefore we ought not in reaſon or common equity to conclude harſhly of any perſon for foibles or errors in his conduct, in a greater or leſſer degree common to all mankind. Much leſs, my lord, are we to confound the ideas of honeſty and common prudence, and becauſe a man is deficient in the laſt, therefore conclude him equally void of the firſt.

WITH regard to Sir John Stewart's character, the minuteſt actions of a long life have been anxiouſly pryed into; the moſt trifling ſtories have been greedily picked up; a thouſand impertinent queſtions have been aſked; and what was ſaid, or ſeems to have been ſaid of him, by the Duke of Douglas, evidently in a paſſion, and under the influence of the ſtrongeſt prejudices, has been marked with triumph.—What has been the re-

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ſult of this inquiſition? why that Sir John Stewart was a warm-tempered, generous, good natured man; very inattentive to his own affairs; enjoying the preſent moment, and, in an uncommon degree, improvident of the future. That this was his real character, I appeal to the conſcience of every one who knew him—I appeal to the conviction of every one who hath attended to the proof in this great cauſe, and I appeal to impartial poſterity, being well aſſured that in this true light after ages will ſee him.—Let your lordſhip judge then, let the world judge how improper a man of this character was for planning and carrying into execution the complicated villany with which the plaintiffs have been pleaſed to charge this unfortunate gentleman.

THE four letters from Pierre la Marre, ſaid to have been forged by Sir John Stewart, and ſome trivial miſtakes he fell into, when examined before the court of ſeſſion, are the chief artillery

which

which the plaintiffs have played off againſt his character. With regard to theſe letters, my lord, they may be forgeries, or they may be true, tho' incorrect, copies of real genuine letters which Sir John had received; I am ſure there is nothing in proof ſufficient to eſtabliſh the certainty of the former, nothing has been adduced of weight to ſet aſide the poſſibility of the latter.

HAD a poſition which the plaintiffs long and ſtrenouſly maintained, turned out to be true, that this ſame Pierre la Marre was only a creature of Sir John's brain, but never really exiſted; and had Sir John's aſſertion ſtood unſupported by any other perſon or circumſtance, I muſt acknowledge that I ſhould have looked upon this as a very ſuſpicious article in the charge. But, my lord, this is by no means the caſe: it is now eſtabliſhed, by inconteſtible evidence, that a perſon of that name really exiſted, and, in the year of the defendant's birth, practiſed ſurgery and midwifery in Paris. HAD

HAD Sir John been conſcious that Lady Jane was not delivered of children, durſt he have fixed upon a real practitioner as the pretended accoucheur? could he indeed divine that this accoucheur would die before his children's birth ſhould be called in queſtion, and therefore be unable to contradict the aſſertion? If we aſcribe this to mere chance, what may we not account for by the ſame ſage way of reaſoning?

I DON'T ſay, my lord, that the bare exiſtence of this perſon, added to Sir John's naming him as the accoucheur, would have afforded a full and ſatisfactory proof that he really acted in that character, had Sir John been unſupported in this by any other perſon or circumſtance. But neither is this the caſe, Sir John's account of the matter is confirmed by the poſitive teſtimony of Mrs. Hewit who was preſent at the birth, and by a variety of other circumſtances which muſt put the matter beyond a doubt with every unprejudiced perſon.

ONE would have thought that the diſcovery of La Marre would have put the plaintiffs a little out of countenance, after they had ſo long denied his exiſtence; but *they had put their hand to the plough, and muſt not look back.* Driven from their ſtrong hold, the non-exiſtence of any man-midwife of that name, they lay hold of every circumſtance that may raiſe a doubt of the La Marre now diſcovered his having been the La Marre mentioned by Sir John Stewart—he was too little known, of too low a rank to bring Lady Jane Douglas to bed—he cannot be the perſon deſcribed by Sir John, becauſe there is either a miſtake or an impropriety in naming the province of which he was a native—he cannot be the perſon mentioned by Sir John, becauſe he has miſtaken the year in which he firſt became acquainted with him.—Are not ſuch objections unworthy a cauſe ſo ſerious and important?

WOULD Sir John Stewart, ſay the plaintiffs, after

after having gone to Paris that Lady Jane might have the beſt aſſiſtance, have truſted her delivery to a low practitioner, to a man ſcarce known? But if it has ſince appeared that La Marre was not much known or employed in Paris at that time, yet who told the plaintiffs, that Sir John Stewart knew as much when he employed him for Lady Jane? was it not natural for him to employ the only one of the buſineſs he ſeems to have known? and did he not act prudently when he deſired La Marre to ſecure further aſſiſtance, in caſe it ſhould be found neceſſary? does it follow, becauſe La Marre was not dignified with titles, and employed by half the town, that therefore he was ignorant and unſkilful in his profeſſion? put the caſe, my lord, that Sir John had really known La Marre to be as mean a fellow as the plaintiffs ſhall be pleaſed to ſuppoſe him, and notwithſtanding that knowledge had employed him in preference to others whom he knew to be better qualified; what would this

amount to? only that he had acted imprudently, and with leſs conſideration of the hazard than many other men would have done in the like circumſtances. But, my lord, it is very clear from the teſtimony of his brethren, that La Marre was neither unſkilful in his buſineſs, nor that mean creature the plaintiffs would have us believe him to have been.

If then, my lord, Pierre La Marre delivered Lady Jane Douglas, it is highly probable that he would upon ſome occaſions correſpond with her huſband after he left Paris, eſpecially as one of the children was left there under his inſpection; nor can I ſee the ſhadow of a reaſon for diſbelieving Sir John, when he ſays that he received many letters from him; even tho' he had been unſupported in this by the teſtimony of Iſobell Walker, who depones that ſhe ſaw him receive a letter from La Marre when he lived in London. A very ſtrong circumſtance to this effect appears from

from Lady Jane's pocket-book, where it is marked with her own hand, that upon ſuch a day Mr Stewart had wrote to Mr ſuch a one, and to Mr La Marre; an anſwer from the firſt named perſon has been recovered, acknowledging the receipt of Sir John's letter, of that date, which convincingly ſhows that the memorandum was not put down at random, but relates to real facts.

I muſt obſerve to your lordſhip that theſe letters never were ſaid to be originals; Sir John Stewart, in his examination before the court of ſeſſion, declared they were only copies made from the originals by one Clinton, with whom he had been acquainted at London.—He even wrote to Mr Clinton deſiring him to recollect whether he had copied them for him—but tho' Clinton gave no anſwer to Sir John's letter, it appears that he was by no means clear that he had not copied theſe letters; for he wrote to a gentleman at Edinburgh, with whom he had formerly lived, de-

desiring him to call for a sight of the copies, and advise him if he thought them of his writing. Clinton was afterward examined upon an act and commission from the court of session, and tho' he denied these letters to be of his writing, he acknowledged that he had copied some papers for Sir John when he lived within the rules of the King's bench; that he then knew very little of the French language, and tho' he did not recollect the tenor, contents, or language in which the papers he had so copied were wrote, yet he had some faint remembrance *that he had seen a paper signed La Marre.*

I KNOW, my lord, that I have been tedious in regard to these letters, and have only to plead in excuse that I look upon the smallest light with respect to them to be of great importance to Sir John Stewart's character. It is certainly too strong a conclusion, that because he could not name the person who copied them, because he named

named a wrong perſon, or becauſe that perſon did not remember, or would not acknowledge the copying of them, that therefore no body had copied them, but Sir John muſt have forged them.

WITH regard to the miſtakes Sir John fell into in his examination, it is certainly nothing but what might have been expected, when an old man of 74 years of age, then under a fit of ſickneſs, and unexpectedly called upon, was to be examined, and croſs examined, in regard to facts and circumſtances which had happened twelve or thirteen years before. It is a ſtrange concluſion the plaintiffs would draw here, becauſe Sir John miſtook ſome circumſtances, and could not at ſo great a diſtance of time, ſatisfactorily account for others, *therefore all he ſwore was falſe.*

IN all other reſpects the character of Sir John Stewart ſtands unimpeached; and how far the

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the doubts that may remain with regard to thoſe letters, and the almoſt unavoidable miſtakes he fell into, on his examination before the court of ſeſſion, will counterbalance the uniform acknowledgement of the defendant as his ſon, and render his ſolemn oath and dying declaration ineffectual, is not my province to determine.

THE declaration which I have juſt mentioned, and the large proviſion which Sir John Stewart, on his ſucceeding to the eſtate of Grantully, ſettled upon the defendant, are facts which in the ſtrongeſt and moſt convincing manner, point him out as the real ſon of Sir John and Lady Jane Douglas. Could a beggar boy who had involved Sir John's family in ſo much diſtreſs have taken ſo faſt a hold of his heart, that for his ſake he would ſtraiten and embarraſs his real, his acknowleged children? could he value this impoſtor above his own ſoul, and voluntarily renounce his hopes of happineſs, rather than this foreign

being

being ſhould not be thought his ſon? could he have gone ſo ſolemnly, ſo deliberately to work in this horrid impiety, as to have called upon a civil magiſtrate, and two miniſters of the goſpel, to hear this declaration read, and to ſee him, as it were, ſign and ſeal his own damnation! no, my lord, in both theſe reſpects Sir John Stewart acted in great conſiſtency with the paternal regard which he had upon every occaſion ſhown for the defendant.

THOSE, my lord, who believe, or affect to believe, that religion is a cheat, and have the courage to laugh at a future ſtate of rewards and puniſhments, may perhaps think there is very little in all this: but thoſe who are leſs hardy, and who are not aſhamed to own a reſpect for religion, and a reverence for Almighty God, will think quite otherwiſe of the matter. They can ſcarce conceive it poſſible for the moſt impious, the moſt abandoned, the moſt hardened villain

that ever exiſted to have acted in this manner, with death upon his lip, and when no intereſt of his own could poſſibly be ſerved by it; much leſs will they believe it of a man, who through the viciſſitudes of a long life had ſupported a fair character, and whom his moſt inveterate enemies have never once charged with an irreligious turn of mind.

Sir John's parting with his man ſervant at Liege was ſtrongly urged, in the condeſcendence of facts at firſt given in by the plaintiffs, as a very ſuſpicious circumſtance; tho' it is now in proof, that the ſervant was a deſerter from the French ſervice, and therefore durſt not enter France. This was diſcovered by mere accident, for, as it had totally eſcaped Sir John's memory, he could give no account of the reaſon why he had parted with his ſervant.

His leaving Lady Jane's maids at Rheims, is ſtill inſiſted upon as a clear indication of his guilt.

guilt. The reaſon given by him and Mrs Hewit for leaving the maids, was want of money to carry them to Paris; but this the plaintiffs treat with the utmoſt contempt. The maids, ſay the plaintiffs, could have been carried to Paris for the trifling ſum of twelve ſhillings—perhaps ſo; but who told them that Sir John had even this ſmall ſum to ſpare for that purpoſe? tho' they might have been carried there for twelve ſhillings, yet a great deal more would have been wanted for lodging and boarding them.

But, my lord, in order to ſhow that want of money could not poſſibly be the reaſon, the plaintiffs tell us that Sir John had a letter of credit impowering him to draw upon a banker at Paris for the high ſounding ſum of *Nineteen hundred and ſeventy nine Livres*—in Britiſh money ſomething more then eighty ſix pounds! a mighty ſum for a Lady of the firſt quality, her huſband, a female companion, and two maids to go into

Paris with, even upon a leſs expenſive occaſion then that of a-lying in! but had Sir John really received that money while at Rheims, which, by the plaintiffs own account of the matter, he certainly did not, yet it is impoſſible to tell what preſſing demands he might have had upon him at that time.

THE plaintiffs would have it believed that the journey to Paris was the effect of a ſudden reſolution, and the concealing from Mr Mallifer the intention of that journey has been ſtrongly urged in proof of an intended fraud. But, my lord, it is in proof, that ſeveral of Lady Jane's friends knew ſhe was to ly in at Paris, and moſt certainly ſhe was under no obligation of ſending circular letters among all her acquaintance, announcing her intention ſo to do. Sir John had no occaſion to mention at all his journey to Mr Mallifer, but that he wanted a recommendatory letter to the inn where the coach was to put up;

a favour he had reaſon to expect without entering upon the particulars of his intended journey.

But he has been accuſed of giving that gentleman a falſe account of his intention in going to Paris, "to make purchaſes."—Here, my lord, I muſt obſerve, that Sir John's family had lived above three weeks at Rheims, he had taken a houſe there, and intended to leave Lady Jane's maids; it is therefore extremely probable that one reaſon why he did not mention the intention of his journey to Paris to Mr Mallifer, was to prevent the ſurprize which that gentleman might have naturally expreſſed, on hearing that the maids were to be left behind upon that occaſion. If Sir John ſpoke only of going to Paris for a jaunt, or to purchaſe ſome trifles, the leaving the maids at Rheims could be no ſurprize to any body; perhaps too this would prevent the apparent neceſſity that Sir John would have been otherwiſe

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under of clearing accounts with his landlady and others at that place.

THERE is however a paragraph in Mr Mallifer's letter to Godfroy, which ſeems to ſhow that Mr Mallifer knew more of the intention of Sir John and Lady Jane's journey to Paris at that time, 2d July 1748, than he could recollect when examined upon oath 17 years after; for he writes Godfroy "I have directed them to your hotel, *to light there.* I do not know if it will be for any time, *for I believe that their intention is to have an apartment to themſelves afterwards.*"

BUT, my lord, whatever may be in all this, it is very evident that Sir John and Lady Jane had reſolved upon the utmoſt privacy and œconomy in regard to the lying in at Paris; a precaution which the unfortunate ſituation of their affairs, and the low ſtate of their finances made abſolutely neceſſary. Their conduct upon that occaſion may appear to ſome mean, and to others imprudent,

dent, but certainly had not the remoteſt appearance of fraud or bad deſign. Had their errand to Paris been to ſteal or purchaſe children, would they have gone to that place in the publick ſtage coach, and by their own proper names? would they have taken a recommendatory letter from a man of rank at Rheims to a noted inn-keeper at Paris? would they, at a conſiderable expence, have brought their maids all the way from Aix la Chapelle to Rheims, and left them there, within two days journey of Paris, where the crime was to be committed, that they might in the event of a detection have been at hand to give a full account who the actors were, and from whence they had come? the bare aſſertion of ſuch abſurdities is enough to make prejudice bluſh.

At this diſtance of time, my lord, it is impoſſible for the defendant to account for every thing in the conduct of his parents that may appear ſingular

ſingular or ſuſpicious; it is certainly not incumbent upon him; but your lordſhip will give me leave to obſerve, that if many years after a crime is ſaid to have been committed, one may be accuſed, and obliged to give a minute and circumſtantiate account of his conduct at that period, not a man in ten thouſand can be ſafe: many accidents daily happen, trivial in their nature, and diſregarded at the time, which afterwards, imperfectly remembered, and partially related, may afford ample matter for prejudice and ingenuity to work upon.

A SLIGHT quarrel, or a raſh word ſpoken twenty years before may give riſe to a proſecution for murder; the exertion of the benevolent principles may be imputed to the blackeſt motives; and a man's humanity may deſtroy him.

To illuſtrate this, my lord, I will ſuppoſe a caſe, and ſurely the plaintiffs will forgive me to ſuppoſe

ſuppoſe the worſt that can be of Sir John Stewart: put the caſe then, that Sir John Stewart's man-ſervant had left Liege the ſame day he parted with his maſter, gone to ſea, and never after been heard of. That of the two maids left at Rheims, one had died of a purple fever, or an inflammation of the lungs, a few days after Sir John and Lady Jane ſet out for Paris, and that the other at the ſame time had been ſeized with an uncommon diſorder, attended with ſevere reachings, dejection of ſpirits, and a delirium, of which, in a few days more, ſhe had alſo died. Suppoſe further, that the man-ſervant had been ſeen go out of the town in liquor, and in company with half a dozen of ſailors, and that theſe ſailors had been obſerved ſome days before ſauntering about Sir John's houſe. Suppoſe it appeared that the maids had been ailing for ſome time; that Sir John had procured medicines for them, and anxiouſly recommended the uſe of

thoſe medicines.—Might not all this have very naturally happened without any fault on Sir John's part? and yet how ſuſpicious muſt theſe things have looked!—what a figure would all this have made in a *monitoire!* how would the plaintiffs have triumphed! how could the defendant have accounted for ſuch a concatenation of unfortunate circumſtances?

He might have told them that the man-ſervant might have been wheedled away, or have voluntarily gone to ſea, without Sir John Stewart's knowing or having any hand in it.—He might have urged, that mere humanity had induced Sir John to purchaſe and recommend theſe medicines to the maids; and that notwithſtanding them, they had very probably died of natural diſorders. Would theſe apologies have been ſuſtained? no, my lord, the plaintiffs would have roundly alledged, that Sir John, conſcious of what he was about, had ſpirited away the man-ſervant, and

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murdered the maids, leſt they ſhould afterwards have told tales.

HAD the defendant endeavoured to ſhow the improbability of all this horrid ſcene of perfidy and murder, he would have been told, that when a man has reſolved to perpetrate a crime, he ſticks at nothing to accompliſh it; that the dreadful conſequences of a diſcovery, ever preſent to his mind, frequently puſh him on to commit one crime with the view of concealing another; that however ſhocking the murder of two innocent maids might appear to an undebauched mind, it would ſeem a meer trifle to one who had determined to violate the ſacred laws of honour and religion by the ſuppoſition of children.

HE would be told, that it was impoſſible in the nature of things for thoſe maids to have lived in family with Lady Jane, and not to have known whether ſhe had or had not been pregnant; they

had acceſs to ſee her upon all occaſions, dreſt and undreſt; they could mark the gradual increaſe of her bulk; they made her bed; they waſhed her linen; how could they be miſtaken? he would have been told, that Sir John having been conſcious that there was no real pregnancy, muſt have alſo known that the maids knew as much, and therefore he had no choice but diſpatch them, or bribe them to keep the ſecret. The laſt expedient he muſt have known to be extremely dangerous; for can a fact remain long ſecret, if three or four women are in the knowledge of it? the defendant has reaſon to thank God that he has not ſuch points of dittay to anſwer, and may boldly defy all his enemies to produce one ſingle circumſtance in the conduct of his parents that neceſſarily infers guilt.

It was eſſential to the ſucceſs of the plaintiffs ſuit, that the character of Lady Jane Douglas ſhould be arraigned as well as that of her huſband:

band: accordingly ſhe is charged with having been his accomplice in the ſuppoſition of children. In all criminal actions, my lord, the characters of the perſons accuſed have great weight with judges and juries; more eſpecially where the alledged crimes are either improbable in their nature, or where the proof reſts upon circumſtances, and pretends not to poſitive or direct evidence.

LET me aſk then, my lord, let me aſk the moſt unfeeling of Lady Jane's enemies, of what crime ſhe was formerly guilty, and what character ſhe bore in the world till the commencement of this ſuit? will they refuſe that ſhe had the univerſal eſteem of her acquaintance? will they refuſe that ſhe had the character of a Lady, no leſs diſtinguiſhed for her piety, candour and humanity, than by her misfortunes and high rank? ſurely, my lord, ſuch a character, uniformly ſupported in her own and foreign countries, till the fifty fourth year of her age, when ſhe died, is

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not eaſily to be ſhaken—ſhaken however it muſt be, yea, totally overthrown, or the mighty pile raiſed by the plaintiffs falls to the ground. Let me further aſk, what are the great diſcoveries which time hath made regarding this lady's character? of what crimes has ſhe been guilty? ſhe married a gentleman, without conſulting her friends—ſhe concealed that marriage for ſome time—ſhe highly reſented the unworthy uſe that a certain lady had made of the report of her being married, and in the warmth of her reſentment ſometimes contradicted that report—add to all this, that ſhe pretended to be the mother of two children; and if I miſtake not, your lordſhip has the ſum-total of the charge againſt Lady Jane Douglas!——

WITH regard to the occaſional refuſals of her marriage, would to God the cuſtoms of the world gave leſs ſanction to ſuch deviations from truth!—I will not preſume to vindicate what I

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am well aſſured Lady Jane herſelf muſt have afterwards condemned.—Let thoſe alſo condemn her who are conſcious of nothing to reproach themſelves with. In regard to the much heavier accuſation, the pretending to be the mother of two children, I ſhall only obſerve that it is not yet a clear point that theſe children were not her own.

THE plaintiffs, my lord, well aware that to every crime there muſt be an impelling motive, have been pleaſed to impute Lady Jane's conduct to the three following: 1. A deſire to draw more money from her brother the Duke of Douglas for the ſupport of her family. 2. A view to ſucceed him in the eſtate. And, 3. Reſentment of ſome real or pretended injuries received from the family of Hamilton. With regard to the firſt; Lady Jane, who knew the Duke's temper, could not but look upon ſuch a ſcheme as extremely precarious; it cannot therefore be well ſuppoſed, that ſhe would have tied her-

herſelf down to a great and certain expence, upon the bare poſſibility of obtaining a larger appointment from her brother. And here, my lord, let me obſerve, that when an argument to this effect was drawn in favour of Lady Jane, from the principles of common prudence, it was *genteelly* anſwered, that *had prudential conſiderations been of any weight, they would have prevented her marriage.* Moſt certainly the plaintiffs have no right to enquire into the motives which determined that lady in her choice of a huſband; nor could ſhe poſſibly foreſee the thouſandth part of that diſtreſs, into which her marriage, with the handle made of it by her enemies, afterward involved her. In regard to the ſecond; can we ſuppoſe, my lord, that a delicate ailing woman, in the fiftieth year of her age, would go upon ſuch a piece of quixotiſm, with the remote, the precarious view of ſucceeding a brother only about two years older than herſelf! a brother,

whoſe

whoſe conſtitution, temperance, and ſequeſtered way of living, gave him many chances for a longer life than herſelf. As to the third, it appears not from any thing in proceſs, that Lady Jane had received any perſonal injury from the Hamilton-family at that period; the polite manner in which his late grace behaved to her after her return to Scotland, does not apply here.

But, my lord, to ſhow in the ſtrongeſt light the utter improbability of ſuch a viſionary ſcheme, I would aſk, could Lady Jane Douglas, could a woman of much lower intellects have deliberated a moment upon it, without foreſeeing the infinite hazard that muſt attend the execution of it? crimes that may be committed in a moment, in darkneſs, or by a ſingle perſon, meet with feeble reſiſtance from bad minds; but theſe crimes in which ſeveral perſons muſt be concerned, and which require many months to accompliſh them, are not ſo readily gone into even by the moſt

abandoned. Had Lady Jane on the one hand ſeen a remote view of ſucceeding her brother, on the other ſhe muſt have ſeen the honour of her family laid in the duſt, and the inheritance of her fathers, by her crime, become the property of ſtrangers to their blood. What effect ſuch a proſpect muſt have had upon a mind ſo delicate, ſo ſuſceptible of the moſt exquiſite feelings, is not hard to conceive. Let me add to all this, the great, the apparent danger of a diſcovery, in the very place where the crime was to be committed, or at ſome future period by the honeſty or weakneſs of her companion or maids, and I imagine the moral impoſſibility of going into ſuch a ſcheme will be evident.

THE determined firmneſs with which the Duke of Douglas refuſed to ſee his ſiſter and her children, hath been ſtrongly urged by the plaintiffs in proof that he did not believe theſe children to be hers. This, my lord, the defendant

dant neither denies nor wonders at. How was it poſſible for his grace, locked up as it were, in his own houſe, the priſoner of a miſcreant whom he had raiſed from the dung-hill, and ſuffered to ſee nobody, to correſpond with nobody, without the good leave of this fellow, how was it poſſible, I ſay, for the Duke of Douglas to ſee his ſiſter in any other light but that in which his prime miniſter was pleaſed to repreſent her?

This mean tool of avarice and ambition was univerſally known to have been courted, to have been flattered, to have been almoſt worſhipped by Lady Jane's enemies; to be of that number, or connected with them, ſeems to have been the higheſt merit that any body could have with him. This miniſter of iniquity at laſt went to his place; Douglas Caſtle was no longer inacceſſible, the Duke ſaw his friends and neighbours; his character roſe every day in the eſteem of the world; and thus the power of Lady Jane's ene-

mies was greatly broken. The malevolence of that wretch's heart, the inconceivable brutality of his ſoul, who could ſhut her brother's gates againſt Lady Jane Douglas and her two infants, fills one with horror—pardon me, my lord, if I have expreſt myſelf too warmly; who can be cool upon ſuch a ſubject!—The perſon I have in my eye is White of Stockbrigs, whom the Duke raiſed from a common working maſon to be his chamberlain, and generouſly diſpenſed with his finding ſecurity for that great truſt. From the depoſition of one of his grace's domeſtics it appears how baſely this ungrateful man rewarded his indulgent maſter—he gave out that the Duke would ſooner fall upon his fork than give a dinner or a bottle of wine to a friend; by which, and by other ſuch infamous arts, his grace's friends and neighbours were withheld from calling upon him. His character, during White's miniſtry, was as little known ten miles from his own houſe, as it could well be at the

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Land's End of England. Upon White's death, at Douglas Caſtle, ſeveral of the Duke's friends were ſent for to ſee his repoſitories opened, and to look into his accompts; of this number was the late Sir William Douglas of Glenbervie, who told me, ſeveral years before the commencement of this ſuit, that in White's apartment were found many letters addreſſed to the Duke of Douglas, which his grace then publicly declared he had never ſeen before. I could have wiſhed, my lord, for the credit of birth and education, that this low creature had alone been chargeable with abuſing the Duke of Douglas; but the truth is, he was aided and ſupported by his ſuperiors in birth and fortune: forged converſations were tranſmitted to his grace, groſly abuſing his ſiſter, and to add weight to the calumny, a very reſpectable lady was introduced. This lady lived long enough to convince the Duke of their falſehood, and to fix an eternal mark of infamy on the wicked author.

PREJUDICES, my lord, acquire ſtrength by time; the mind cannot without pain give up with opinions as falſe, which it hath long held as true. If this obſervation applies to matters purely ſpeculative, how much more to opinions which have had a great influence upon one's moral conduct? If an unjuſt opinion has led one into a courſe of action which plunged in the deepeſt diſtreſs, and at laſt broke the heart of the perſon upon earth deareſt to him, and in all reſpects moſt deſerving his love and eſteem; how painful, how inexpreſſibly painful, muſt the conviction of ſuch a fatal miſtake be to his mind! he pities, he pardons, he prays for the wretched inſtruments who miſled him, but never, never can forgive himſelf. This, my lord, was preciſely the caſe of the much abuſed, the unfortunate Duke of Douglas! but I draw the veil of ſilence over a ſcene too deeply affecting to be fully ſeen or deſcribed.

HAD the Duke of Douglas died with thoſe prejudices upon his mind, the plaintiffs might have

have urged them with a better grace; his prejudices were indeed ſtrong, but truth is invincible. If they were ſtrong, my lord, the greater force of evidence was neceſſary to remove them. Were they not thoroughly removed? did he not cancel the fatal effects of them? is not this ſuit a ſtriking proof of his conviction? his beloved ſiſter was no more; hath he not done ample juſtice to her ſurviving child? the plaintiffs, my lord, have no right to canvaſs that evidence, which compleated his grace's conviction; nor if they had, is it poſſible for them to apprehend its full force.

THE Duke of Douglas knew thoroughly all the arts that lady Jane's enemies had made uſe of to ruin her in his eſteem—he knew diſtinctly what account they had all along given of her conduct—he knew in what manner, by their accounts, ſhe had become poſſeſt of her children—and by comparing all theſe with the converſation

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he had with my Lady Stair, the accounts he had received from Mrs Hewit and others, and by reflecting upon the characters and probable views of thoſe who had diſtinguiſhed themſelves againſt his ſiſter, he became qualified to judge of her guilt or innocence, in a degree much ſuperior to any man upon earth. The reſult of that judgement does honour to his grace's candour and humanity, and after ages will execrate theſe arts by which two noble perſons, equally united by the ties of blood and friendſhip, were ſo long and ſo unhappily divided.

MUCH has been ſaid by the plaintiffs of that air of myſtery and concealment which, by their account, runs thro' the whole of Sir John and Lady Jane's conduct. But it may be conſidered, that there is nothing eaſier than for fanciful or intereſted people to find myſteries in every thing; for a myſtery may be defined, either a thing in its own nature above the reach of our faculties, or a thing

thing artfully thrown out of its plain and natural point of view. And I will preſume to ſay that there is nothing in Sir John's or Lady Jane's conduct which may not be accounted for upon the principles of plain common ſenſe; nor any thing very ſurprizing, when ſtript of that glare and falſe colouring, which the plaintiffs have ſo liberally thrown over it.

WAS it not very natural, my lord, for a lady who entirely depended upon a brother, with whom ſhe was upon bad terms, and who without his knowledge or conſent had married a gentleman by no means able to ſupport her according to her rank, I ſay, was it not very natural for her to conceal that marriage from her brother till a favourable opportunity might occur of acquainting him? was it not a prudent ſtep to go abroad for ſome time with this view? and can ſhe be greatly blamed for laying hold of the very plauſible pretence, which the then ſtate of her health afforded her for going abroad?

If a female relation heard of that marriage, and made an unworthy uſe of the report, is it wonderful if the lady, in the warmth of reſentment, and alarmed at the probable conſequences, contradicts the report and denies the marriage? if fourteen months after her marriage this lady becomes pregnant, what muſt ſhe do? *Acknowledge her marriage, or ſuffer in her fame.* Lady Jane Douglas choſe the firſt. If this Lady, then in her fiftieth year, inſtead of oſtentatiouſly ſhowing, is at pains to conceal her pregnancy, what concluſion would candor draw from her conduct? *an exceſs of modeſty is an exceſs of virtue.* Should it be doubtful whether ever this lady conſulted a phyſician during her pregnancy, were it even certain that ſhe never did, muſt we therefore believe her pregnancy to have been only affected? certainly not; millions of women who have born children never ſaw a doctor in their life.

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If the place where this lady occaſionally reſides becomes the ſeat of public congreſs, if the price of lodgings is raiſed, if proviſions become dearer, if a greater reſort of company ſeems unavoidable, if her finances are low, her funds extremely precarious, what would prudence ſuggeſt to her in ſuch a caſe? *Quit the place, go where you can live cheaper, and more retired.* If when juſt entering upon the eighth month of her pregnancy ſhe has the courage to think of making a long journey, what would timidity ſay? *It is dangerous.* What experience? *Thouſands have undergone the like or greater fatigues without the leaſt bad conſequence.* What would prudence ſuggeſt? *Make ſhort journies and long reſts.* Lady Jane Douglas travelled from Aix-la-Chapelle to Liege in *one day*, and *reſted three.* Hence to Sedan in *three days*, and *reſted a week.* Hence to Rheims in *three days*, and *reſted a month.*

THERE is, my lord, no circumſtance in Lady Jane's conduct which the plaintiffs have made a greater handle of againſt her, than her long ſtay at Rheims, and her not having choſen to be brought to bed there. But, my lord, to this it may be anſwered, 1. That Lady Jane had an unqueſtionable title to chuſe what place ſhe thought proper for lying in at. 2. It is in proof that ſhe was adviſed to ly in at Paris, and that ſhe had reſolved ſo to do before ſhe left Aix-la Chapelle. 3. It was very natural for her, when ſhe had taken a houſe at Rheims, to which ſhe intended to return, to continue there till near her time. To Paris was only two days journey; and tho' ſhe was brought to bed the ſixth day after ſhe arrived there, poſſibly ſhe had not reckoned upon her hour being ſo near.

THE whole of Sir John and Lady Jane's conduct while in Paris has been ſeverely ſcrutinized, and no leſs ſeverely blamed by the plaintiffs; all, according

according to their account, is myſtery and concealment, all points at the blackeſt deſigns. Here, my lord, I would obſerve, that a perſon of common feelings, who has any idea of what it muſt have coſt a lady of the firſt rank to be reduced to the mean apartments and poor attendance that we are ſure Lady Jane Douglas muſt have put up with upon that occaſion, ſuch a one, I ſay, will much ſooner impute this to a fatal neceſſity ariſing from her depreſſed circumſtances, than to her own free choice, with a view to accompliſh a very mean, a very wicked fraud, quite contradictory to the opinion that all the world had formed of her character. But the plaintiff's proof in general, eſpecially in regard to this period, has already been ſet in ſo juſt a light, that I have nothing to add.

HOWEVER painful it may be, I will, for a moment ſuppoſe, with the plaintiffs, that Sir John Stewart and this unfortunate Lady really were

were accomplices in the crime with which they are charged; and upon this ſuppoſition would beg leave to aſk, is it not ſtrange, is it not wonderfully ſtrange, that theſe accomplices in ſo black a fraud ſhould not in the courſe of their private correſpondence have ever once dropt the leaſt hint either inferring guilt or a ſuſpicion of a diſcovery? was this correſpondence artfully carried on and ſtudiouſly preſerved to ſupport the cheat? no, my lord, thoſe ineſtimable vouchers of Lady Jane's piety, reſignation to the will of God, and other amiable qualities, were diſcovered long after her death; not carefully wrapt up and depoſited in Sir John Stewart's cabinet, but thrown by neglected in a garret, among uſeleſs papers and old cloaths, in a houſe at London, where Sir John had lodged when a priſoner within the rules of the King's bench. And what is very remarkable, when by Sir John's permiſſion, the landlord ſold theſe cloaths for payment of the rent, it does not appear that Sir John ſet

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any value upon theſe papers, or even once deſired to have them ſent down to Scotland; nor in fact were they ever moved from the place, till after the commencement of this ſuit.

And here, my lord, I cannot help obſerving, that however careful people of buſineſs may be of their letters, it is a very common practice among gentlemen to carry the letters they receive in their pocket till they are chaffed and wore out, and, when become too bulky, to burn or throw them careleſly by. This, by the appearance of the paper, ſeems to have been Sir John Stewart's method of treating his correſpondence; and indeed we have a ſtriking proof of it in the depoſition of Lady Stewart his widow; from which it appears that ſeveral of the moſt material letters and papers in this cauſe were firſt ſhown to her by a ſervant of Sir John's who was about to quit his ſervice, and *that theſe papers lay in an old trunk*

trunk under that ſervant's care, in which he was in uſe to keep ſhoe bruſhes, deer's greaſe, &c.

NEED we therefore wonder if many letters have been loſt and deſtroyed which might have thrown light upon this ſuit? and may I not here, with great appearance of probability, venture upon a conjectural anſwer to ſome queſtions which may be very naturally put, what became of La Marre's original letters? why were the copies only preſerved? or why were they copied at all? The fact ſeems to be, that theſe letters were carried in Sir John's pocket till tattered and wore out, ſo as to be illegible to every body but himſelf, and that then believing them to be of conſequence, he cauſed ſome blunderer copy them for him. But this I only offer as a probable conjecture.

BUT, my lord, had Lady Jane Douglas been really guilty of the crime imputed to her, did ſhe not live long enough to have ſeen how unſucceſsful

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it was like to prove? did ſhe not find, that by the aſperſions thrown upon her character, altogether on that account, her brother's heart was ſteeled againſt her to a degree ſcarce conceiveable? that it was become abſolutely impenetrable by the intereſt of their friends, and not to be moved by the very affecting ſituation of her family. How diſtreſsful that ſituation!—lodged in mean apartments—her huſband in jail—herſelf and children frequently without bread,——obliged to pawn and ſell her cloaths for ſubſiſtence—her health greatly broken—inſulted by her enemies—neglected by her friends—language fails me—the generous and humane will ſupply its defects.

Was not this ſituation a time for recollection? was it poſſible for Lady Jane not to reflect upon her conduct? and if ſhe muſt have reflected upon it, could ſhe do it without horror? to what but her own guilt and meanneſs could ſhe have aſcribed her misfortunes? to what but the

juſt vengeance of heaven, the firmneſs with which her brother refuſed to ſee her? to what her want of bread, but to the juſt judgment of God for having raiſed up two impoſtors to eat the bread of others?

I DO not ſay, my lord, that theſe feelings, however natural, however unavoidable, muſt have produced an acknowledgement of her crime; but I appeal to the conſcience of every man, to the experience of all ages, whether they muſt not, on many occaſions, in ſuch trying circumſtances, have betrayed great ſuſpicions of guilt and a diſturbed mind? Was it ever alledged that Lady Jane Douglas, upon any occaſion whatever, betrayed the remoteſt indication of a guilty or diſturbed mind? no, my lord, ſhe bore her misfortunes with great dignity and ſpirit; ever chearful, ever reſigned to the will of God: an illuſtrious example, that piety and religion are ſuperior to the greateſt difficulties.

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CAN we then believe, my lord, that a lady whom people of all ranks, in different nations, and of different religions, looked upon as the moſt amiable, the moſt virtuous of her ſex, was all the while a groſs hypocrite, diſſembling with God and man, daring the vengeance of the one, impoſing upon the credulity of the other? could a woman of this character, in the language of genuine devotion, in the greateſt diſtreſs, conſole herſelf in the chearing hopes of God's favour and protection, while in the mean time ſhe knew her conduct ſo blameable, her views ſo unjuſt? do not thoſe objects and purſuits, which in the fair days of proſperity, and ſun-ſhine of health, ſeduce us from our duty, aſſume a very different appearance in the dark days of adverſity, when all around us is gloom and ſadneſs, when our blood runs cold, when our nerves are unſtrung, and the *arrows of the Almighty ſtick faſt in our ſouls?*

YET

YET in all her diſtreſſes, next to the mercy of God, the defendant and his brother were the joy, the chief conſolation of Lady Jane's heart. Did all that ſhe ever ſuffered, for a moment abate the fervour of her tenderneſs for either of them? did not the loſs of the one abſolutely break her heart? did ſhe not pour forth her dying, her maternal bleſſing on the head of the other? could ſhe have felt the gradual approaches of death, with ſuch a load of guilt upon her mind, and not have trembled? durſt ſhe, I ſpeak as a chriſtian, I know to whom I write, durſt ſhe, my lord, when but juſt alive, reduced with pain and ſickneſs, and within a few days of her death, have publickly approached the altar of the God of truth, in joyful commemoration of that meritorious death by which penitent ſinners only are ſaved, while ſhe yet knew herſelf meanly and wickedly ſupporting an impoſtor?

COULD ſhe in ſuch a ſituation of mind, have welcomed the king of terrors, as the kind friend who was juſt to put an end to all her ſorrows? durſt ſhe, with her feeble hand upon the defendant's head, and her eyes lifted up to heaven, have in her laſt moments recommended him to the divine mercy, *as her ſon*, had ſhe known him to be an impoſtor? durſt ſhe have expreſſed her confidence that her dying requeſt would be indulged, and in that pleaſing hope could ſhe have ſhut her eyes upon the world? Great God! if the faireſt characters may be thus blaſted in a moment;——if the uniform tenor of a long life devoted to piety and virtue be no ſecurity, in what a wretched ſituation are mankind!—— Happy! thrice happy, ye dead! who are removed from ſuch a perilous ſcene.

THUS I have given your lordſhip my opinion of this great cauſe, and of the two principal characters

racters concerned on the part of the defendant. The character of Mrs Hewit, Lady Jane's friend and companion, is eſtabliſhed upon the moſt ſolid baſis, by the depoſitions of a reverend clergyman, and other perſons of acknowledged probity, who were long and intimately acquainted with her. She died affirming the truth of what ſhe had all along ſaid, and what ſhe had repeated times ſolemnly ſworn in relation to the defendant's birth. Her teſtimony ſtands confirmed by the oath and dying declaration of Sir John Stewart, by the uniform conduct thro' life of him and Lady Jane Douglas; and by a thouſand other ſtriking circumſtances; againſt all which the plaintiffs would oppoſe ſome trivial miſtakes in her depoſition, which chiefly regard dates and circumſtances.

THE character of Iſobel Walker, formerly one of Lady Jane's maids, and one of the two left

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at Rheims, is no leſs unexceptionable; ſhe has obtained the moſt honourable teſtimony from ſeveral of the learned judges in the court of ſeſſion, and will be diſtinguiſhed to the end of time for her firm adherence to the cauſe of truth and her ſteady unſhaken attachment to the moſt deſerving, tho' the moſt unfortunate, miſtreſs, that theſe latter ages have produced.

THE complexion of this ſuit on the part of the plaintiffs, is painted in ſuch ſtrong and lively colours in the pamphlet mentioned in the beginning of this letter, that nothing can be added to it. The proceedings in France, eſpecially the Tournelle Proceſs, are there ſet in a very juſt and alarming point of view; and I will affirm that man unworthy the liberty of a Britiſh ſubject, who can read the accounts of that procedure without indignation. Should theſe arbitrary proceedings, at any time hereafter, obtain the

the ſanction of our laws, what a wound muſt the liberty of the ſubject thereby receive! what a triumph would it be to foreigners, that thoſe deſpotic meaſures, which we had ſo long and ſo juſtly exclaimed againſt, were at laſt adopted by us, and become part of our polity! Forbid it, ye bleſt ſpirits, protectors of liberty, that ever the life, the rights, or the property of a Britiſh ſubject ſhould be again queſtioned in a court where he dares not appear to vindicate them!

THUS, my lord, the Genius of Britain ſolicits our attention, let us liſten to her voice. "While "ye yet enjoy liberty, O my charge! ſet a "juſt value on the ineſtimable bleſſing. Your "rights, your properties, your all depend upon "the due and impartial adminiſtration of thoſe "ſacred laws and cuſtoms which your anceſtors "have tranſmitted to you. Innovations are al-"ways dangerous; dread therefore the ſmalleſt "alte-

" alteration of thoſe laws and cuſtoms, by which
" the peace of your families and the ſacred rights
" of your children are preſerved inviolable.
" Think evil of no man, but modeſtly repreſent
" the danger of a precedent which would have
" a tendency to introduce among you jealouſies,
" ſurmiſes, informations, and endleſs law-ſuits.
" Let not the loud clamours of diſappointed ava-
" rice abate your horror of a precedent, which
" would put a man's ſtate ſo much in the power of
" his loweſt enemies. Start not at ſhadows, be
" not alarmed at dangers barely poſſible; art-
" ful men may involve the ſimpleſt facts in
" clouds and darkneſs; ſophiſtry can put a face
" on the vileſt argument: but let your judgments
" be determined by general principles, not by
" dark and ſuſpicious circumſtances. Human
" weakneſs cannot prevent the poſſibility of
" committing crimes; it is impoſſible but the
" guilty muſt ſometimes eſcape puniſhment;

" how much better this, than that the [illegible]
" ſhould ſuffer? ſuffer by thoſe very laws [illegible]
" for their protection!"

PARDON me, my lord; I have exceed[illegible]
bounds in the length of this letter.—— [illegible]
have ſometimes expreſt myſelf with too [illegible]
warmth, candidly impute it to an honeſt [illegible]
truth. I have no connection with the def[illegible]
I am not known to his managers; I have no [illegible]
remoteſt dependance on him or them. [illegible]
then ſhould influence my judgment, but [illegible]
merits of the cauſe?—I have ever thoug[illegible]
vileſt, the moſt ignoble proſtitution of [illegible]
lents God hath given one, to employ [illegible]
ſupport of a bad cauſe: for ſurely the [illegible]
ever diſtinguiſhed, who pleads or writ[illegible]
the convictions of his own mind, is a [illegible]
moſt deſpicable wretch. I have the [illegible]
be, with the utmoſt reſpect,

My lord, &c. &c.

Auguſt 18, 1768.